

**MINUTES OF THE MEETING
OF THE
BOARD OF OCCUPATIONAL THERAPY**

October 20, 2005

CALL TO ORDER Start

Brenda Coppard, Chairperson, called the meeting of the Board of Occupational Therapy to order at 10:05 a.m., Thursday, October 20, 2005, in Conference Room Lower Level F, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was duly publicized by distribution of the Notice of the Meeting Agenda prior to the meeting and posting the agenda at the entrance of the Department of Health and Human Services at least twenty-four (24) hours prior to the meeting.

Roll Call

The following Board members, HHSS Staff and visitors were present at the meeting:

Brenda Coppard, Chairperson
R. McLaren Sawyer, Consumer Member
Lisa Scheet, Professional Member

Diane Hansmeyer, Section Administrator
Delores James, Credentialing Coordinator
Donna Goldsberry, Temp. Credentialing Coordinator
Pat Gromak, Occupational Therapist

Absent Christina Bueide

Adoption of the Revised Agenda

Sawyer moved, seconded by Scheet, to adopt the agenda as presented. Voting aye: Coppard, Sawyer and Scheet. Voting Nay: None. Absent and not voting: Bueide. Motion carried.

Approval of Minutes

Scheet moved, seconded by Sawyer, to approve the board minutes of July 20 and September 7, 2005 board meeting and conference call with a correction on the July 20, minutes, which should show that Bueide was absent and Scheet was present. Voting aye: Sawyer, Scheet and Coppard. Voting nay: None. Absent and not voting: Bueide. Motion carried.

PROPOSED REGULATIONS

Public Hearing Comments

The Board addressed the comments from the public hearing:

Need to change Section 114-005.01D 2.c. on page 16. "A passing score of 75% or better on one or a combination...". The Board's intent was 75% on each test. Hansmeyer will rewrite.

The concern about the department acting within 150 days was addressed. Hansmeyer stated that 150 days is used because that is how it is in the Administrative Rule and it needs to be consistent with that. In addition, the 150 days is for the public's protection when an applicant has disciplinary action pending. Sawyer suggested adding language that "the Department will act promptly, but not to exceed 150 days". Hansmeyer stated she will ask whether or not that can be added and stated that the intent is not to take 150 days.

Discussion ensued regarding the concern voiced about the providers being listed in the Rules and Regulations. The Board determined that the providers should be listed in the Rules and Regulations as it serves the purpose of allowing licensees to know right away which courses have been approved so the process can keep moving forward. The Board agreed that the next time the regulations are revised, the provider list could be removed. The wording of "approved training or its equivalent" included in the proposed Rules and Regulations allows a Board-approved course to be recognized if it was taken prior to the effective date of the Regulations. The Board agreed that a provider and course listing should be put on the web site, which could be added to as new courses/providers are approved. Hansmeyer will check with the Legal Department to ensure that the Rules & Regulations would not need to be revised each time a new provider or course is approved.

Pat Gromak with NOTA questioned if there is a conflict of interest as PAMPCA is one of the approved providers and also the organization providing the examination for the 5 years experience. Hansmeyer stated that PAMPCA was the only one that had a psychometrically valid defensible exam and could maintain it. She added that the way the statute is written, one exam was needed to demonstrate competency when the individual has 5 years of experience.

The concern of the Board reviewing the courses on a semiannual basis was discussed. It was noted that the Board could meet more often, but that semiannually would be the minimum. Hansmeyer noted that the Board has to act on any application within 150 days. In order to make it clearer, Hansmeyer will add a clause to 114-005.08F on page 21 stating that the Board will act upon applications for approval of courses within 150 days.

The Board next addressed the concern of alternative formats for the Nebraska Physical Agent Modalities Testing Services Examinations. Hansmeyer noted that the reference found in section 114-005.09A pertains only to the registration of the exams. In the contract with PAMPCA, it will include the criteria that alternative methods must be offered to meet ADA requirements. The Board agreed to keep the wording as it exists.

The concerns of AOTA were addressed and the Board agreed that the definition of "Basic Educational Program/Educational Program" should be revised, as it does not currently reflect that the Accreditation Council for Occupational Therapy Education (ACOTE) independently accredits educational programs.

Regarding AOTA'S concern about hand therapist's certification, it was noted that the statute prevents the Board from changing this item.

The issue of occupational therapists and occupational therapy assistants taking the same exam for superficial thermal agent modalities and giving an inconsistent message about their roles in the use of this modality was discussed. The Board stated that the courses should be the same,

regardless of whether it's an OT or OTA. Hansmeyer noted that it would be more inconsistent to have different exams for certification of the same modality. It was agreed that Hansmeyer Would add a statement in the Regulations to reflect that the superficial thermal agents test is the only exam that an OTA is eligible to take.

The Board then addressed the concern brought forward by Mary Walsh-Sterup pertaining to the concern of availability and access to courses for certification. The Board discussed the fact that anyone who asked for the information was sent the information and anyone who wants to be a provider can apply. The Board requested that the Department send Walsh-Sterup the information for becoming a provider.

The Board stated that the question about whether or not students/interns are allowed to perform in clinical settings without being certified is addressed in the statute under exemption.

Motion on Approval of Regulations with Changes

Sawyer moved, seconded by Scheet, to approve the Rules and Regulations with the changes as discussed pending a review of any comments that may be received in the mail by the October 22, 2005 deadline. Voting aye: Coppard, Sawyer and Scheet. Voting Nay: None. Absent and not voting: Bueide. Motion carried.

Goldsberry left the meeting at 11:15 a.m.

UNIFORM LICENSURE LAW (Attachment A)

Rewrite Revision

Hansmeyer discussed the proposed changes to the Uniform Licensing Law rewrite, (Referred to as REQ 0138) and the summary of changes. She stated that the summary information does not contain all of the changes to the proposed bill. The summary is designed to give the Board major changes to review and to give feedback before REQ 0138 is finalized.

The following changes will take place in the Uniform Licensing Law rewrite:

The name of this document will be changed to the Uniform Credentialing Act because certification and registration are covered as well. The definitions for these three forms of credentials are found on pages 7, 9 and 10 of REQ 0138.

Page 3 lists all of the practice acts that are covered in the REQ 0138. What that means is that these are the acts within this act.

Hansmeyer reviewed the following changes, which are found on the summary sheets that provide information of why the changes are necessary and where they can be found in the REQ 0138 document:

Initial License - Gives the boards more authority, it changes the current wording: "Board approves or the board adopts the regulations." The board will approve requirements for licensure such as; the education the person has to have, what examination they have to pass, if they have to have experience and if so what type of experience, the passing score they have to meet in order to pass the examination, and approval of schools/training. The current language states that the Department with the approval or the recommendation of the board. What is meant by current language is that the Department and the board would have to agree and if they did not the change would not

take place.

Section 55 page 61 gives a definition of the purpose of each board.

Section 68, page 77 gives information on the Department's role of being responsible for the general administration of the activities of each of the boards.

Section 45, page 46 identifies that the cost of operation of the board should be paid from the Professional and Occupational Credentialing Cash Fund and General Fund. The statement on General Fund is for Emergency Medical Services because they do not pay fees because they are volunteers.

Section 45 page 46 - The reinstatement language is crosshatched. It was changed, but the boards like the current language. Therefore, the original language will remain in this section.

Renewal: Biennial renewal is not a change and it appears on the summary because all of the practice acts have been added to the UCA for consistency purpose.

The 2nd part is that licenses will no longer be revoked for non-payment of fees, they will just expire. Licensees did not like the term revocation because it will be on their record permanently and appears that the license was revoked for disciplinary reasons.

Hansmeyer stated that research was done to find out what other states are doing and they found out that other states were not revoking licenses for this reason.

The 30-day grace period will be eliminated because it confuses licensees. It makes them think that they can continue to practice until the grace period is over. When the truth is that the only thing that the grace period allowed is for licensees to pay the licensure fees. Reinstatement does the same thing.

Eliminated the inactive fee, but not inactive status. Individuals can choose inactive status at the time of renewal and not have to pay a fee. The reason for this change is that the fee wasn't necessary because there is no extra work involved in this process and it is the belief that fees should be paid to support cost and if there is no cost, then there should not be a fee charged.

Reinstatement will not change, except for people who were disciplined. If their license was revoked for disciplinary reasons they could reapply for reinstatement after two years.

Endorsement and Reciprocity: Reciprocity in Nebraska does not mean true reciprocity. The word reciprocity means that if a person has a license in one state they can get a license in another state based upon that license. The term, which will appear in REQ is endorsement. It also eliminated the requirement to have practiced at least one year out of the last three.

Hansmeyer gave the Board new language to review for possible addition to the Occupational Therapy Practice Act. She stated that this language would eliminate a loophole, which she feels is currently in the practice act (Attachment A1). C (1) is when

a person gets their initial license and number 2, is when they are licensed in another state.

She gave an example of a person who passed the examination and finished their educational requirements. This person met the requirements for licensure, but they had not practiced in Nebraska for some reason and now they want to get a license. As the language is currently written, the State of Nebraska would have to give them a license.

The new language would give the Board the right to consider competency and if the Board feels that someone who hasn't practice for five years isn't competent, then this Would allow the Board to write regulations, which would include competency requirements.

Number 2 is written for a person coming from another state/jurisdiction and also requires that continuing competency be met after a 3 years period of licensure inactivity.

Hansmeyer reviewed information on the Board's Role, which gives the board the authority to adopt regulations without the Department's approval for initial licensure standards, renewal standards, passing score, course of study, defining unprofessional conduct and sending applications for reinstatement

Number 2 under Board Role can be found in Section 31 on page 23 and this is where the board recommends to the Department on licensure and other administrative areas, the security of the examination, issuance and denial of licensure, and administration of the examination.

Board Expenses: the new requirements will provide a per diem to board members for up to \$50.00 per day and the Board can also give a per diem to people serving on advisory committees.

Board Composition: The ULL rewrite requires an additional public member for boards with less than eleven members.

Hansmeyer will eliminate and one shall be an occupational therapy assistant.

Practice Act Changes

Hansmeyer explained the changes to the Occupational Therapy Practice Act, which are found on the summary.

Hansmeyer stated that the Department wants to ask each board how they feel about the changes and if they could support the proposed changes in ULL as well as in the practice act. If not, the Department would like to address concerns before this bill is taken to the legislature.

Gromak stated that the Association wanted at least one board member to be an occupational therapy assistant. Hansmeyer said that they would see if the Department would be willing to support this change in the practice act.

Scheet moved, seconded by Sawyer, to amend the language in Section 71-6115 of the statutes to read "one shall be an occupational therapy assistant." Voting aye: Scheet, Sawyer and Coppard. Voting nay: None. Absent and not voting: Bueide. Motion carried.

CONTINUING COMPETENCY

Jurisprudence Examination

The Board will review a sample of a jurisprudence examination, which is now being used by another board, and will look at their statutes and regulations to formulate some questions for their jurisprudence examination. This subject will be discussed at the next board meeting.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Re-Affirmation of Mail Ballots

Sawyer moved, seconded by Scheet, to re-affirm the mail ballot for reinstatement of Jennifer McNeal's license. Voting aye: Sawyer, Coppard and Scheet. Voting nay: None. Absent and not voting: Bueide. Motion carried.

2005 NBCOT State Regulatory Conference Report

Sawyer attended the annual state regulatory conference of the National Board of Certification in Occupational Therapy in Arlington, Virginia, on October 15, 2005 and reported that he found the meeting to be very informative. He stated that there was a lot of talk about licensure of foreign graduates and requiring social security numbers and this is because of the New Patriot Act. People coming from other countries will have to have social security numbers before being permitted to enter the United States.

Sawyer also said that the TOEFL examination was discussed. Hansmeyer gave some background information on the TOEFL examination and stated that TOEFL is changing to a new internet based test, which was introduced in September 2005 in the United States, and will be introduced in October in Canada, France, Germany and Italy, and to the rest of the world in 2006.

The new test will include the following changes:

- All four language skills that are important for effective communication: Speaking, Listening, reading, and writing.
- Some questions require test takers to combining more than one skill.
 - read, listen, and then speak in response to a question
 - listen and then speak in response to a question
 - read listen, and then write in response to a question
- Includes a speaking section. This section includes six tasks and test takers wear headphones and speak into a microphone when they respond. The responses are digitally recorded and transmitted to ETS's Online Scoring Network where human scorers rate them.
- The writing section has been expended. The new test requires test takers to write a response to material they have heard and read, and to compose an essay in support of an opinion.

NBCOT had and opportunity to participate in the TOEFL Standard Setting Program along with the Federation of Licensure Boards for Physical Therapy, the National Board of Pharmacy, the

National Council of State Boards of Nursing, the Commission on Graduates of Foreign Nursing Schools, the American Veterinarian Medical Association, and the Educational Commission for Foreign Veterinarian Graduates.

MISCELLANEOUS

Schedule Next Board Meeting

The next board meeting will take place January 17, 2006 at 9:00 a.m. in Lincoln, Nebraska.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:20 p.m.

Respectfully submitted,

Christine Bueide, Vice-Chair